

(3) The Certifying Officer must send a copy of the Appeal File to the employer. The employer may furnish or suggest directly to the Board of Alien Labor Certification Appeals the addition of any documentation that is not in the Appeal File, but that was submitted to DOL before the issuance of the Final Determination. The employer must submit such documentation in writing, and must send a copy to the Associate Solicitor for Employment and Training Legal Services, Office of the Solicitor, U.S. Department of Labor, Washington, DC 20210.

§ 656.27 Consideration by and decisions of the Board of Alien Labor Certification Appeals.

(a) *Panel designations.* In considering requests for review before it, the Board of Alien Labor Certification Appeals may sit in panels of three members. The Chief Administrative Law Judge may designate any Board of Alien Labor Certification Appeals member to submit proposed findings and recommendations to the Board of Alien Labor Certification Appeals or to any duly designated panel thereof to consider a particular case.

(b) *Briefs and Statements of Position.* In considering the requests for review before it, the Board of Alien Labor Certification Appeals must afford all parties 30 days to submit or decline to submit any appropriate Statement of Position or legal brief. The Certifying Officer is to be represented solely by the Solicitor of Labor or the Solicitor's designated representative.

(c) *Review on the record.* The Board of Alien Labor Certification Appeals must review a denial of labor certification under § 656.24, a revocation of a certification under § 656.32, or an affirmation of a prevailing wage determination under § 656.41 on the basis of the record upon which the decision was made, the request for review, and any Statements of Position or legal briefs submitted and must:

(1) Affirm the denial of the labor certification, the revocation of certification, or the affirmation of the PWD; or

(2) Direct the Certifying Officer to grant the certification, overrule the

revocation of certification, or overrule the affirmation of the PWD; or

(3) Direct that a hearing on the case be held under paragraph (e) of this section.

(d) *Notifications of decisions.* The Board of Alien Labor Certification Appeals must notify the employer, the Certifying Officer, and the Solicitor of Labor of its decision, and must return the record to the Certifying Officer unless the case has been set for hearing under paragraph (e) of this section.

(e) *Hearings*—(1) *Notification of hearing.* If the case has been set for a hearing, the Board of Alien Labor Certification Appeals must notify the employer, the alien, the Certifying Officer, and the Solicitor of Labor of the date, time, and place of the hearing, and that the hearing may be rescheduled upon written request and for good cause shown.

(2) *Hearing procedure.* (i) The “Rules of Practice and Procedure For Administrative Hearings Before the Office of Administrative Law Judges,” at 29 CFR part 18, apply to hearings under this paragraph (e).

(ii) For the purposes of this paragraph (e)(2), references in 29 CFR part 18 to: “administrative law judge” mean the Board of Alien Labor Certification Appeals member or the Board of Alien Labor Certification Appeals panel duly designated under § 656.27(a); “Office of Administrative Law Judges” means the Board of Alien Labor Certification Appeals; and “Chief Administrative Law Judge” means the Chief Administrative Law Judge in that official's function of chairing the Board of Alien Labor Certification Appeals.

§ 656.30 Validity of and invalidation of labor certifications.

(a) *Validity of labor certifications.* Except as provided in paragraph (d) of this section, a labor certification is valid indefinitely.

(b) *Validation date.* (1) A labor certification involving a job offer is validated as of the date the ETA application processing center date-stamped the application or the date an electronically filed application was submitted; and

(2) A labor certification for a *Schedule A* occupation is validated as of the